

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION
OF THE
PALOMAR ENERGY PROJECT
BY SEMPRA ENERGY RESOURCES**

**DOCKET No. 01-AFC-24
DATA ADEQUATE
FEBRUARY 6, 2002**

NOTICE OF EVIDENTIARY HEARINGS AND HEARING ORDER

PLEASE TAKE NOTICE THAT the Committee will conduct formal evidentiary hearings on the proposed Palomar Energy Project as follows:

**TUESDAY, APRIL 8, 2003
Beginning at 10 a.m.
CALIFORNIA ENERGY COMMISSION
First Floor Hearing Room A
1516 Ninth Street
Sacramento, CA 95814
(Wheelchair Accessible)**

Teleconference: Governmental agencies and members of the public may participate either in person or via teleconference. For the convenience of those who cannot travel to Sacramento, please call **1-800-988-9352** by 10 a.m. The "conference leader" is Susan Gefter and the "passcode" is Palomar.

-and-

**MONDAY, APRIL 28, 2003
1 p.m. – 5 p.m.
6:30 p.m. - 8:30 p.m. (Public Comment)**

-and, if necessary-

**TUESDAY, APRIL 29, 2003
9 a.m. – 12 noon**

**California Center for the Arts
Conference Center, Salon #1
340 North Escondido Blvd.
Escondido, CA 92025
(Wheelchair Accessible)**

This Notice also includes a list of witnesses for each topic (Attachment A) and the remaining schedule for the proceeding (Attachment B).

BACKGROUND

At the Prehearing Conference on March 13, 2003, the parties agreed (1) that there were several undisputed issues and (2) that they were ready to proceed to evidentiary hearings. Applicant and Staff proposed to submit testimony by declaration on all undisputed topics. Intervenor Bill Powers had no objection to testimony by declaration on undisputed topics. Intervenors CURE and Cabrillo, LLC, did not file Prehearing Conference Statements nor appear at the Prehearing Conference. Mr. Dan Spear, representing the San Diego Air Pollution Control District (Air District), participated at the Prehearing Conference and indicated that a representative from the Air District would be available to provide testimony at the evidentiary hearings.

Applicant shall provide live testimony at the evidentiary hearings on the topic of “project description” to set the context for the project proposal. In addition, Applicant and Staff shall clarify testimony on the topics of air quality (offset package, compliance with Pub. Resources Code, § 25523(d)(2), and implications of new state standard on particulate emissions), public health (applicable cancer risk standard), land use (coordination of conditions contained in the ERTC Specific Plan Amendment and proposed Conditions of Certification), biological resources (coordination of conditions in the ERTC Specific Plan Amendment and proposed Conditions of Certification), and transmission system engineering (potential impacts to transmission system resulting from suspension of Valley-Rainbow transmission interconnect project). See Attachment B, which sets deadlines for submitting supplemental testimony.

Intervenor Bill Powers asserts the project’s proposed cooling process will result in adverse impacts on regional water supply, air quality, public health, and visual resources (Staff’s significance standard for cooling tower plumes). Mr. Powers also disputes Staff alternatives analysis regarding the cooling process. The parties shall provide live testimony on the cooling process and

its implications on the topics identified by Mr. Powers. Evidence on the undisputed aspects of those topics may be submitted by declaration.

EVIDENTIARY HEARING PROCEDURES

The purpose of evidentiary hearings is to establish the factual record necessary for the Commission to reach a decision on the proposed project. The record is developed by the presentation of oral and written testimony, as well as documentary evidence submitted by the parties.

During evidentiary hearings, all parties (Applicant, Staff, and Intervenor) shall present evidence consisting of declarations under penalty of perjury or sworn testimony in person, and exhibits on each topic area. The parties must identify their witnesses and submit their testimony in writing prior to the hearing.¹ All witnesses who appear in person shall testify under oath or affirmation and will be subject to cross-examination by other parties.

A party sponsoring a witness at the hearing shall briefly establish the expert qualifications of the witness and ask the witness to summarize the prepared testimony before requesting that the testimony be moved into evidence. Relevant exhibits should be offered into evidence at that time. At the conclusion of a witness's direct testimony, the Committee will provide the other parties an opportunity for cross-examination, followed by redirect and recross examination as appropriate. Multiple witnesses may testify as a panel, if warranted.

The parties shall file and serve copies of their prepared testimony, proposed exhibits, and exhibit lists no later than 5 p.m. on March 26, 2003. Rebuttal testimony shall be filed no later than 5 p.m. on April 4, 2003. The parties shall also send electronic copies of their written testimony and exhibit lists to the Proof of Service and to the Hearing Officer via email. Any request for additions, changes, or substitutions to the hearing schedule shown in Attachment A should be included in the April 4th filings.

¹ The parties must file written testimony in accordance with the schedule set forth in this Notice in order to present testimony at the hearings. Any direct testimony offered after the noticed dates may be subject to motions to strike by the other parties.

The rules of evidence pertaining to these hearings may be found at Sections 1212-1213 of the Commission's regulations. [Cal. Code Regs., tit. 20, §§ 1212, 1213; see also § 1702 (h)]. The regulations can be viewed on the Commission's Internet website at:

[<http://www.energy.ca.gov/siting/title20/tofc.html>]

The Applicant has the burden of presenting sufficient substantial evidence to support the findings and conclusions required for certification of the site and related facilities. [Cal. Code of Regs., tit. 20, § 1748(e)].

Public Participation

Members of the public may participate at the evidentiary hearings and offer unsworn public comment on the topics addressed at the hearings. Public comments will be entered into the record of the proceeding and may be used to supplement or explain the evidence of record. Public comments by themselves, however, are not sufficient to support a finding of fact or a decision on an issue. Those desiring information on how to participate may contact Roberta Mendonca, the Energy Commission's Public Adviser, at 916-654-4489 or 1-800-822-6228 or email at: **[pao@energy.state.ca.us]**

Additional Information

Technical questions concerning the project should be addressed to Bob Eller, the Staff Project Manager, at (916) 651-8835 or e-mail at: **[beller@energy.state.ca.us]**

Questions of a legal or procedural nature should be directed to Susan Gefter, the Hearing Officer, at (916) 654-3893 or e-mail at: **[sgefter@energy.state.ca.us]**

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz at 916-654-5146 or e-mail at: **[lquiroz@energy.state.ca.us]**

Media inquiries should be directed to Claudia Chandler, Assistant Executive Director for Media and Public Communications at (916) 654-4989 or e-mail at: **[energia@energy.ca.gov]**

Information concerning the status of the project, notices, and other relevant documents are posted on the Energy Commission's Internet web page at: **[www.energy.ca.gov/sitingcases/palomar]**

Dated March 20, 2003, at Sacramento, California.

JOHN L. GEESMAN
Commissioner and Presiding Member
Palomar AFC Committee

WILLIAM J. KEESE
Chairman and Associate Member
Palomar AFC Committee

Mail Lists: POS, 7152, 7153, 7154

**ATTACHMENT A
TOPIC and WITNESS SCHEDULE**

**TUESDAY, APRIL 8, 2003
Beginning at 10 a.m.
Sacramento**

UNCONTESTED TOPICS

Topic	Witnesses	Time*
Project Purpose and Description	Applicant: Joe Rowley Staff: Bob Eller	20 minutes
Facility Design	Applicant: Joe Rowley Staff: Shahab Khoshmashrab, Al McCuen, Steve Baker	Declaration
Power Plant Reliability	Applicant: Joe Rowley Staff: Kevin Robinson, Steve Baker	Declaration
Power Plant Efficiency	Applicant: Joe Rowley Staff: Kevin Robinson, Steve Baker	Declaration
Transmission System Engineering	Applicant: Joe Rowley Staff: Henry Zaininger, Laiping Ng, Al McCuen	5 minutes
Transmission Line Safety and Nuisance	Applicant: Joe Rowley Staff: Obed Odoemelum	Declaration
Geological/Paleontological Resources	Applicant: Sally Bilodeau, Thomas DeMere Staff: Dal Hunter	Declaration
Cultural Resources	Applicant: James Cleland Staff: Roger Mason	Declaration
Hazardous Materials	Applicant: Howard Ballantine Staff: Alvin Greenberg, Rick Tyler	Declaration
Waste Management	Applicant: Jacqueline Breese Staff: Alvin Greenberg	Declaration
Traffic and Transportation	Applicant: Scott Barker Staff: Steven Brown	Declaration
Noise and Vibration	Applicant: Hans Giroux Staff: Jim Buntin	Declaration
Socioeconomics	Applicant: Arrie Bachrach Staff: James Adams	Declaration
Worker Safety and Fire Protection	Applicant: Allen Bennett Staff: Alvin Greenberg, Rick Tyler	Declaration
Compliance	Applicant: Joe Rowley, Ray Kelly Staff: Connie Bruins	Declaration

*Includes direct testimony and cross-examination; parties may yield time.

**ATTACHMENT A
TOPIC and WITNESS SCHEDULE**

MONDAY, APRIL 28, 2003

Beginning at 1 p.m.

Escondido

(Will continue, if necessary, TUESDAY, APRIL 29, 2003, at 9 a.m.)

CONTESTED TOPICS and Clarifications to Uncontested Topics

Topic	Witnesses	Time*
Soil and Water Resources	Applicant: Sally Bilodeau (soils), Jacqueline Breese (water quality), Joe Rowley and John Hoagland (water supply)	20 min
	Staff: Joe Crea, Richard Latteri	20 min
	Intervenor: Bill Powers	2 hours
Alternatives	Applicant: Joe Rowley	10 min
	Staff: Suzanne Phinney (declaration), Joe Crea, Richard Latteri	10 min
	Intervenor: Bill Powers	10 min
Air Quality	Applicant: Sara Head, Howard Balentine, Patrick McKean Alberto Abreu, Ray Kelly, Steve Heisler, Dan Spear (Air District)	20 min
	Staff: Brewster Birdsall (declaration), Bob Eller	10 min
	Intervenor: Bill Powers, Dr. H. Khandan, Greg Morrill, Carolyn Shaputic	1 hour
Public Health	Applicant: Sara Head, Ray Kelly, Howard Balentine	15 min
	Staff: Alvin Greenberg (declaration), Bob Eller	10 min
	Intervenor: Bill Powers	40 min
Visual Resources	Applicant: Eddie Torres, Howard Balentine	10 min
	Staff: Michael Clayton, Will Walters (declaration), Bob Eller	10 min
	Intervenor: Bill Powers	20 min
Land Use	Applicant: Arrie Bachrach, Jonathan Brindle (City of Escondido) Staff: Amanda Stennick (declaration)	15 min
Biological Resources	Applicant: Keith Merkel, Jonathan Brindle (City of Escondido) Staff: Bruce Barnett, Rick York (declaration)	15 min

*Includes direct testimony and cross-examination; parties may yield time.

ATTACHMENT B
COMMITTEE SCHEDULE FOR REMAINDER OF PROCEEDING

COMMITTEE SCHEDULE

<i>EVENT</i>	<i>DATE (2003)</i>
All parties file prepared testimony, expert witness qualifications, relevant declarations, and exhibits	March 26
Applicant and Staff submit clarifications and supplemental testimony requested by the Committee	March 26
All parties file rebuttal testimony	April 4
Evidentiary hearings (uncontested issues)	April 8
Evidentiary hearings (contested issues and clarifications)	April 28 and (if needed) April 29
Parties file opening briefs on uncontested issues	10 days after transcript receipt
Parties file opening briefs on contested issues	10 days after transcript receipt
Committee issues Presiding Member's Proposed Decision (PMPD) and Notice of Committee Conference (30-day review)	<i>To Be Scheduled</i>
*Parties file written comments on PMPD	<i>To Be Scheduled</i>
*Committee Conference on PMPD; parties submit errata or other clarifications	<i>To Be Scheduled</i>
*Close of comment period on PMPD	<i>To Be Scheduled</i>
*Commission consideration of PMPD	<i>To Be Scheduled</i>

* These events will be noticed separately.